

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

ROY F. HILLBERRY II,

Plaintiff,

v.

CIVIL ACTION NO. 2:21-cv-00290

DONALD AMES,

Defendant.

ORDER

Pending before the Court is Petitioner Roy Hillberry's ("Petitioner") Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, (ECF No. 1), and Motion for Preliminary Injunction and Temporary Restraining Order, (ECF No. 3). By Standing Order entered in this case on May 13, 2021, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 2.) Magistrate Judge Tinsley filed his PF&R on January 11, 2022, recommending that this Court dismiss the Petition for Writ of Habeas Corpus, (ECF No. 1), as Petitioner's claim is not cognizable under 28 U.S.C. § 2441, (ECF No. 4). Additionally, the PF&R recommends that this Court deny Petitioner's Motion for Preliminary Injunction and Temporary Restraining Order, (ECF No. 3), as Petitioner did not demonstrate a likelihood of success on his habeas corpus proceeding, (ECF No. 4).

This Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation

to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on January 28, 2022. (ECF No. 4.) To date, no objections have been filed, thus constituting a waiver of *de novo* review and Petitioner’s right to appeal this Court’s order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 4), **DISMISSES** Petitioner’s Petition for Writ of Habeas Corpus, (ECF No. 1), and **DENIES** Petitioner’s Motion for Preliminary Injunction and Temporary Restraining Order, (ECF No. 3). The Court further **DIRECTS** the Clerk to remove this matter from the Court’s docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: January 31, 2022



THOMAS E. JOHNSTON, CHIEF JUDGE